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Security Council

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Letter dated 22 March 2001 from the Secretary-General addressed to the President of the Security Council

I have the honour to refer to Security Council resolution 955 (1994) of 8 November 1994, by which the Council established the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994.

I also have the honour to refer to Security Council resolutions 1165 (1998) of 30 April 1998 and 1329 (2000) of 30 November 2000, by which the Council amended the Statute of the International Tribunal, as adopted in its resolution 955 (1994).

Article 12 of the Statute of the International Criminal Tribunal for Rwanda, as so amended, provides, in relevant part, as follows:

"*Article 12*

"*Qualification and election of judges*

"1. The judges shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. In the overall composition of the Chambers, due account shall be taken of the experience of the judges in criminal law, international law, including international humanitarian law and human rights law.

"2. Eleven of the judges of the International Criminal Tribunal for Rwanda shall be elected by the General Assembly from a list submitted by the Security Council, in the following manner:

(a) The Secretary-General shall invite nominations for judges from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters;

(b) Within sixty days of the date of the invitation of the Secretary-General, each State may nominate up to two candidates meeting the qualifications set out in paragraph 1 above, no two of whom shall be of the same nationality and neither of whom shall be of the same nationality as any

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judge who is a member of the Appeals Chamber and who was elected or appointed a permanent judge of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (hereinafter referred to as "the International Tribunal for the Former Yugoslavia") in accordance with article 13 bis of the Statute of that Tribunal;

(c) The Secretary-General shall forward the nominations received to the Security Council. From the nominations received the Security Council shall establish a list of not less than twenty-two and not more than thirty-three candidates, taking due account of the adequate representation on the International Criminal Tribunal for Rwanda of the principal legal systems of the world;

(d) The President of the Security Council shall transmit the list of candidates to the President of the General Assembly. From that list the General Assembly shall elect eleven judges of the International Criminal Tribunal for Rwanda. The candidates who receive an absolute majority of the votes of the States Members of the United Nations and of the non-member States maintaining permanent observer missions at United Nations Headquarters, shall be declared elected. Should two candidates of the same nationality obtain the required majority vote, the one who received the higher number of votes shall be considered elected.

"3. In the event of a vacancy in the Chambers among the judges elected or appointed in accordance with this article, after consultation with the Presidents of the Security Council and of the General Assembly, the Secretary-General shall appoint a person meeting the qualifications of paragraph 1 above, for the remainder of the term of office concerned.

"4. The judges elected in accordance with this article shall be elected for a term of four years. The terms and conditions of service shall be those of the judges of the International Tribunal for the Former Yugoslavia. They shall be eligible for re-election."

In paragraph 2 of its resolution 1329 (2000), the Security Council decided that two additional judges should be elected as soon as possible as judges of the International Criminal Tribunal for Rwanda and that the terms of office of the additional judges so elected should expire, together with those of the judges who are currently serving on the Tribunal, on 24 May 2003.

Pursuant to what is now paragraph 2 (a) of article 12 of the Statute of the International Criminal Tribunal for Rwanda, following the amendments that were introduced by the Security Council in its resolution 1329 (2000), States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters were invited, by means of a letter dated 15 January 2001, to submit nominations for two additional judges of the International Criminal Tribunal for Rwanda and were informed that, within 60 days of the date of the letter, they might nominate up to two candidates meeting the qualifications set out in article 12, paragraph 1, of the Statute of the Tribunal, as so amended.

They were also informed that, should they decide to nominate two candidates, then, in accordance with article 12, paragraph 1 (b), of the Statute of the Tribunal, as amended, those candidates should not be of the same nationality as each other.

They were further advised that, in accordance with article 11 of the Statute of the Tribunal, as amended, no two judges of the Tribunal might be nationals of the same State. They were informed that, in consequence, they might not nominate a candidate bearing the same nationality as any of the judges who are currently serving on the International Criminal Tribunal for Rwanda and that, accordingly, they might not nominate candidates bearing any of the following nationalities: Colombia, France, Guyana, Italy, Jamaica, Malaysia, Norway, Russian Federation, Saint Kitts and Nevis, Senegal, Slovenia, South Africa, Sri Lanka, Turkey and United Republic of Tanzania.

Pursuant to article 12, paragraph 1 (c), of the Statute of the International Criminal Tribunal for Rwanda, as amended by the Security Council in resolution 1329 (2000), I have the honour herewith to forward to the Council the four nominations which I have received from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters within the 60-day period specified in article 12, paragraph 2 (b), of the Statute, as so amended. The list of candidates, in alphabetical order, is contained in the annex to the present letter. The curricula vitae of the candidates will appear in a separate document to be issued shortly by the General Assembly.

In this connection, I would draw the attention of the Security Council to article 12, paragraph 1 (c), of the Statute of the International Criminal Tribunal for Rwanda, as amended by the Security Council in resolution 1329 (2000), which, as applied to the current election by paragraph 2 of that resolution, provides, in relevant part, as follows:

> "From the nominations received the Security Council shall establish a list of not less than [four] and not more than [six] candidates, taking due account of the adequate representation on the International Criminal Tribunal for Rwanda of the principal legal systems of the world."

I would take this opportunity to note that, pursuant to article 12, paragraph 4, of the Statute of the International Tribunal, as amended, the judges of the International Criminal Tribunal for Rwanda elected in accordance with that article are to serve on a full-time basis and thus may not engage in any other occupation of a professional nature during their term of office.

Once elected to the International Criminal Tribunal for Rwanda, the judges are expected to take up residence at its seat in Arusha. However, should it occur, pursuant to article 13, paragraph 3, of the Statute of the International Criminal Tribunal for Rwanda, as amended by the Security Council in resolution 1329 (2000), and article 14, paragraph 4, of the Statute of the International Tribunal for the Former Yugoslavia, as amended by the Council in the same resolution, that they are assigned by the President of the International Criminal Tribunal for Rwanda to be members of the Appeals Chambers of the International Tribunal for the Former Yugoslavia and of the International Criminal Tribunal for Rwanda, they will be expected to take up residence at the seat of the International Tribunal for the Former Yugoslavia, in The Hague.

(*Signed*) Kofi A. **Annan**

Annex

List of candidates nominated by Governments

Name	*Nationality*	*Nominated by the Government(s) of*
Mouinou Aminou	Benin	Benin
Frederick Mwela Chomba	Zambia	Zambia
Harris Michael Mtegha	Malawi	Malawi
Arlette Ramaroson	Madagascar	Madagascar